

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case Number 11-11435  
Honorable David M. Lawson

DALE SLOAN,

Defendant.

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**ORDER GRANTING MOTION FOR ALTERNATE SERVICE**

The plaintiff has filed a motion for an order permitting substituted service of process and a Verification of Process Service reciting the unsuccessful attempts at service of the summons and complaint. The Verification explains that the process server attempted personal service on the defendant at his last known home address, 19250 Shadowoods, Roseville, Michigan, 48066, on five separate occasions: May 16, 2011 at 11:22 a.m., May 31, 2011 at 7:00 a.m., June 5, 2011 at 1:30 p.m., June 8, 2011 at 6:30 p.m., and June 15, 2011 at 7:30 p.m. After the first attempt at service, the defendant called the process server and indicated that he would be out of town for a week. The final four service attempts did not occur during the week the defendant indicated. The plaintiff also has attached a copy of an envelope, mailed to the defendant by certified mail, return receipt requested and delivery restricted, demonstrating that the defendant failed to claim this package on April 4, 12, and 22, 2011. Finally, the plaintiff attached a Change of Address inquiry form confirming that there were no changes in the defendant's address.

Federal Rule of Civil Procedure 4(e) sets forth the rules for service of process on individuals and provides that service may be accomplished "pursuant to the law of the state in which the district court is located." Fed. R. Civ. P. 4(e)(1). Under Michigan law, service on an individual may be

effected by delivering the service documents personally or by registered or certified mail, return receipt requested and delivery restricted to the addressee. Mich. Ct. R. 2.105(A). In addition, an individual may be served under federal law by personal service, by leaving a copy of the service documents with an individual “of suitable age and discretion” who resides at the purported defendant’s residence, or delivering a copy of the documents to an agent. Fed. R. Civ. P. 4(e)(2). When seeking to effect service by alternate means, the plaintiff must demonstrate that service of process cannot reasonably be made in a manner set forth under Michigan law or the Federal Rules of Civil Procedure, and that the substitute means requested are reasonably calculated to give the defendant actual notice of the proceedings and an opportunity to be heard. *See* Fed. R. Civ. P. 4(e)(1); Mich. Ct. R. 2.105(I)(1).

The plaintiff has demonstrated that service cannot reasonably be made by personal service or certified mail with return receipt requested and delivery restricted. The fact that no one answered the door on five service attempts suggests that service by leaving the documents with a resident of suitable age and discretion also is unavailing. There is no evidence in the record to suggest that the defendant has an agent who may accept service on his behalf. The alternate means of service required by the plaintiff are reasonably calculated to give the defendant actual notice and an opportunity to be heard.

Accordingly, it is **ORDERED** that the plaintiff’s motion for alternate service [dkt #3] is **GRANTED**.

It is further **ORDERED** that the plaintiff may serve the defendant with the summons and a copy of the complaint in the manner set forth below. Service shall be completed by:

- (A) mailing a copy of the summons and complaint by first class mail to Dale Sloan, 19250 Shadowoods, Roseville, MI 48066;

- (B) mailing a copy of the summons and complaint by certified mail (return receipt requested) to Dale Sloan, 19250 Shadowoods, Roseville, MI 48066; and
- (C) firmly affixing a copy of the summons and complaint to the front door of the address noted above.

The plaintiff shall file a certificate confirming service as provided herein.

s/David M. Lawson \_\_\_\_\_  
DAVID M. LAWSON  
United States District Judge

Dated: June 23, 2011

**PROOF OF SERVICE**

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on June 23, 2011.

s/Deborah R. Tofil \_\_\_\_\_  
DEBORAH R. TOFIL